

### **REMARKS**

The present application contains claims 1-85, the status of which is as follows:

- (a) Claims 34, 35, 39 and 44 were previously presented.
- (b) Claims 5, 6, 8, 12, 14, 49, 50, 52, and 53 are currently amended.
- (c) Claims 1-4, 7, 9-11, 13, 15-33, 36-38, 40-43, 45-48, 51, and 54-85 have been cancelled, without prejudice.

No new matter has been added.

### **ALLOWABLE SUBJECT MATTER**

Applicants thank the Examiner for allowing claims 34, 35, 39, and 44.

### **CLAIM REJECTIONS UNDER 35 U.S.C. §112**

Claims 5, 6, 8, 12, 14, 49, 50, 52, and 53 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. While disagreeing with this rejection, Applicants have amended these claims to recite 50 mA instead of the previously recited 30 mA. The application as filed provides written description for these amendments, *inter alia*, as follows:

- Claim 5 – claim 4 as originally filed recited "an amplitude less than about 50 mA," claim 1 as originally filed recited "a rate greater than about 10 Hz," claim 9 as originally recited "less than about 100 W," and claim 5 as originally filed recited the last feature of claim 5 as current presented ("sensing motion. . ."). Support for the combination of frequency, amplitude and power is provided because claim 4 originally depended from claim 1, and claim 9 as originally filed multiply depended from claims 1-8.

- Claim 6 – same support for combination of parameters as given for claim 5 above, and claim 6 as originally filed recited the last feature of claim 6 as currently presented ("inhibiting propagation. . .").
- Claim 8 – same support for combination of parameters as given for claim 5 above, and claim 6 as originally filed recited the last feature of claim 8 as currently presented ("pacing the heart. . .").
- Claim 12 – same support for combination of parameters as given for claim 5 above, and claims 11 and 12 as originally filed recited the penultimate and last features, respectively, of claim 12 as currently presented. In addition, claim 11 as originally filed multiply depended from claims 1-8.
- Claim 14 – same support for combination of parameters as given for claim 5 above, and claims 13 and 14 as originally filed recited the penultimate and last features, respectively, of claim 14 as currently presented. In addition, claim 13 as originally filed multiply depended from claims 1-8.
- Claim 49 – claim 48 as originally filed recited "an amplitude less than about 50 mA," claim 45 as originally filed recited "a rate greater than about 10 Hz," claim 54 as originally recited "less than about 100 W," and claim 49 as originally filed recited the last feature of claim 5 as current presented ("a sensor. . ."). Support for the combination of frequency, amplitude and power is provided because claim 48 originally depended from claim 45, and claim 54 as originally filed multiply depended from claims 45-53.
- Claim 50 – same support for combination of parameters as given for claim 49 above, and claim 50 as originally filed recited the last feature of claim 50 as currently presented ("a fencing electrode. . .").

- Claim 52 – same support for combination of parameters as given for claim 49 above, and claim 52 as originally filed recited the last feature of claim 52 as currently presented ("a pacing electrode. . .").
- Claim 53 – same support for combination of parameters as given for claim 49 above, and claim 53 as originally filed recited the last feature of claim 53 as currently presented ("wherein the one or more electrodes. . .").

Applicants thus respectfully submit that claims 5, 6, 8, 12, 14, 49, 50, 52, and 53 as amended are now in a condition for allowance.

#### CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claim 32 was rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent 5,683,429 to Mehra in view of US Patent 5,713,929 to Hess et al. Claim 33 was rejected under 35 U.S.C. §103(a) as being unpatentable over Mehra in view of Hess and further in view of US Patent 5,797,967 to KenKnight. While not necessarily agreeing with these rejections, Applicants have cancelled claims 32 and 33 to bring about a speedy issuance of a patent including the claims that were found allowable. Applicants reserve the right to prosecute some or all of the cancelled claims in a continuing application, and to present arguments for the patentability of these claims in the continuing application.

Applicants believe the amendments presented hereinabove to be fully responsive to all of the grounds of rejection raised by the Examiner. In view of these amendments and remarks, Applicants respectfully submit that all of the claims in the present application are now in order for allowance. Notice to this effect is respectfully requested.

Respectfully submitted,

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